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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/675,229

09/29/2003

Takako Fujii

B-5248 621294-8

9863

36716

7590

12/22/2006

LADAS & PARRY

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EXAMINER

HILL, LAURA C

ART UNIT

PAPER NUMBER

3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/22/2006

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20061213

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary

Application No.

10/675,229

Applicant(s)

FUJII ET AL.

Examiner

Laura C. Hill

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-11 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-11 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2 October 2006 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 3-7, 9, and 15-17 are based on the newly submitted claim amendments and thus have been considered but are moot in view of the new ground(s) of rejection as discussed below.

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. The following title is suggested: Absorbing Article having Honeycomb Recesses on Lower Absorbent Layer and Varying Layer Densities.

Claim Language Interpretation

The limitation that "the lower layer extends beyond an outer edge of said upper layer" as recited in line 15 of claim 1 is given its broadest reasonable interpretation consistent with the specification that the lower layer of the absorbent extends in a longitudinal or lateral direction beyond a longitudinal or lateral outer edge of the upper

layer. For example, so long as the upper layer is separate and distinct from the lower edge (e.g.—there is spacing in a longitudinal direction or in a lateral direction between the upper and lower layers), [see also attached annotated figure 2] it meets the claim limitation.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 15 recites the limitation "wherein a length of *the* linear portions of said article" in line 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 16 recites the limitation "wherein a width of *the* linear portions of said article" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 4-7, and 9-11 and 15-17 are rejected under 35 U.S.C. 103(a) as obvious over Wehrmeyer et al. (US 3,908,659). Regarding claims 1, 4, 6, and 9-11 Wehrmeyer discloses body fluid absorbent diaper 10 (column 3, lines 58-61) comprising an absorbent pad 12/22 sandwiched between moisture pervious top sheet 14 and impervious barrier 16 (column 4, lines 4-15), wherein said absorbent pad includes upper tissue layer 24 and lower tissue layer 26 (column 5, lines 3-6, figure 3); wherein said lower layer 26 has a higher density than upper layer 24 since it is embossed/recessed into a continuous honeycomb shape on the garment facing side of lower layer 26

(column 6, lines 55-66, figure 2); wherein the recesses have an emboss/densification percentage of 12-50% absorbency (column 6, lines 15-23) for a desired balance of softness and absorbency (column 5, lines 20-22); wherein the lower layer 26 extends beyond an outer lateral edge of the upper layer 24. Wehrmeyer inherently has recess angle of inclination in the ranges claimed, upper layer density less than the lower layer density in the ranges claimed, and spacing distance values because the lower layer is recessed since where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a prima facie case of either anticipation or obviousness has been established. In re Best, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977).

Wehrmeyer does not expressly disclose the lower layer extends beyond an outer edge.

Regarding claims 5 and 7 Wehrmeyer further discloses no clearances (figures 1-3).

Regarding claims 15-16 Wehrmeyer further discloses the length and width of the article are longer and wider respectively than the liner portions in the inclination of the honeycomb shaped embossments (figure 1).

Regarding claim 17 Wehrmeyer further discloses recesses are formed in the absorbent 22 (figure 3).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wehrmeyer et al. (US 3,908,659) in view of Fitzgerald (US 4,435,178). Regarding claim 3 Wehrmeyer discloses recesses on the garment side of the lower layer 26 as discussed above with respect to claims 1 and 4. Wehrmeyer does not expressly

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disclose the recesses are on the body side of the lower layer. **Fitzgerald** discloses absorbent sanitary napkin 10 having an absorbent core 12 disposed between body fluid permeable body-side top sheet 34 (column 3, lines 14-18) and sheet of water impervious material 26 which overlies back member 24 (column 3, lines 9-11) and is laid on top of the core (column 4, lines 4-6); wherein the absorbent core has a upper layer 14 coextensive with lower layer 16 and having recesses 18 formed on the body-facing side to accommodate gushes of fluid and improve absorption of bodily fluids (column 3, lines 24-28 and figure 1), compressed grooves/recesses 19 formed on the garment-facing side (column 2, lines 40-68, figure 1), wherein squeeze-out portions are formed on both sides of lower layer 16 in areas outside of recesses 18 (figure 1), wherein the lower layer 16 inherently has a higher density than upper layer 14 and a higher density than the squeeze out portions lying outside recesses since the lower layer contains recesses 18, 19. Fitzgerald further discloses the recesses and compressed portions are desirable to easily receive and prevent the gushes of waste fluid from gushing through the pad, and thus enhancing body fluid distribution (column 2, lines 11-16). One would be motivated to modify the honeycomb recesses with surface area percentages of Wehrmeyer with the body side lower layer recesses of Fitzgerald for improved fluid absorbency since the references both disclose multi-layered recessed absorbent cores for use in personal wearing articles. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the absorbent layer, thus providing a recessed body side lower layer.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fitzgerald (US 4,435,178) discloses absorbent sanitary napkin 10 having an absorbent core 12 disposed between body fluid permeable body-side top sheet 34 (column 3, lines 14-18) and sheet of water impervious material 26 which overlies back member 24 (column 3, lines 9-11) and is laid on top of the core (column 4, lines 4-6); wherein the absorbent core has a upper layer 14 coextensive with lower layer 16 and having recesses 18 formed on the body-facing side to accommodate gushes of fluid and improve absorption of bodily fluids (column 3, lines 24-28 and figure 1), compressed grooves/recesses 19 formed on the garment-facing side (column 2, lines 40-68, figure 1), wherein squeeze-out portions are formed on both sides of lower layer 16 in areas outside of recesses 18 (figure 1), wherein the lower layer 16 inherently has a higher density than upper layer 14 and a higher density than the squeeze out portions lying outside recesses since the lower layer contains recesses 18, 19. Fitzgerald further discloses the recesses and compressed portions are desirable to easily receive and prevent the gushes of waste fluid from gushing through the pad, and thus enhancing body fluid distribution (column 2, lines 11-16).

Thomas et al. (US 6,610,904) discloses hexagonal embossments on the body-facing side of a multilayered absorbent core for use in a diaper, sanitary napkin, etc. Costanza et al. (US 3,707,430) discloses an absorbent core with hexagonal channels 18 that control absorbency and move fluids. Graeme et al. (US 6,586,653) discloses an absorbent article with honeycomb embossed topsheet with 5-25% surface area

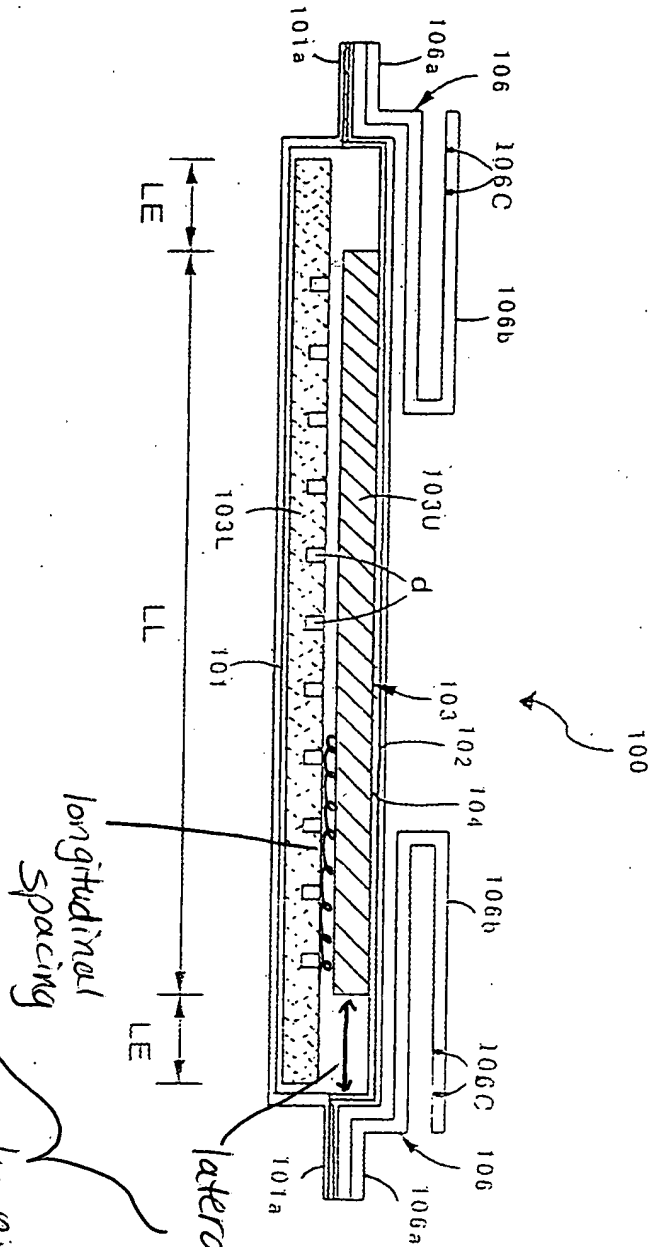


FIG 2 Annotated

lower layer 103L
"extends beyond an outer
edge of said upper layer"

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embossed and an embossed fluid permeable transfer sheet below the top sheet in the pattern of flowers and curvilinear rails. Gallagher (US 3,468,311) discloses absorbent pad 16 with hexagonal cells 20'.

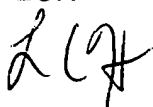
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (hours vary).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura C. Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

